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Fish and Game Commission



Sonke Mastrup, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
(916) 653-5040 Fax
www.fgc.ca.gov

January 15, 2014

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to subsections (c) and (e) of Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing, which will be published in the California Regulatory Notice Register on January 17, 2014.

This is the first of two notices relating to ocean salmon sport fishing and pertains to the ocean salmon sport fishing regulations for April 2014 and the ocean salmon possession limit. A separate notice pertaining to the remainder of the 2014 ocean salmon sport fishing regulations will also be published in the California Regulatory Notice Register on January 17, 2014.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Dr. Craig Shuman, Regional Manager of the Marine Region, at (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend subsections (c) and (e) of Section 27.80, Title 14, California Code of Regulations, relating to April 2014 sport fishing regulations for ocean salmon and possession limit for ocean salmon.

Informative Digest/Policy Statement Overview

The Pacific Fishery Management Council (PFMC) coordinates west coast management of recreational and commercial ocean salmon fisheries in the federal fishery management zone (three to 200 miles offshore) along the coasts of Washington, Oregon and California. The annual PFMC ocean salmon regulation recommendations are subsequently implemented by the National Marine Fisheries Service (NMFS) effective on May 1 of each year.

California's recreational salmon fishing regulations need to conform to the federal regulations to achieve optimum yield in California under the Federal Salmon Fishery Management Plan. The Commission adopts regulations for the ocean salmon recreational fishery in State waters (zero to three miles offshore) which are consistent with these federal fishery management goals.

Present Regulations

Current regulations authorized ocean salmon recreational fishing seven days per week north of Horse Mountain including Humboldt Bay from May 1 to September 8, 2013. Between Horse Mountain and Point Arena, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013. Between Point Arena and Pigeon Point, ocean salmon recreational fishing was authorized seven days per week from April 6 to November 10, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. Areas south of Pigeon Point had an ocean salmon recreational fishing season seven days per week from April 6 to October 6, 2013, except during June 1 through July 9, 2013 when salmon fishing was closed on Mondays and Tuesdays. For all areas in 2013, the bag limit was two fish per day (all species except coho). Areas north of Point Arena had a minimum size limit of 20 inches total length. The area between Point Arena and Pigeon Point had a minimum size limit of 24 inches total length through July 31, 2013 and 20 inches total length thereafter. Areas south of Pigeon Point had a minimum size limit of 24 inches total length. Current regulations also provide that not more than one daily bag limit of recreationally taken ocean salmon may be possessed.

On May 1, 2013, NMFS implemented the 2013 federal ocean salmon regulations, which included the PFMC's recommendation to open the California ocean salmon recreational fishing season south of Horse Mountain on April 5, 2014. While federal waters south of Horse Mountain will open on April 5, 2014, State waters in this area will not open unless the Commission takes regulatory action to do so.

Proposed Regulations

Two separate Commission actions are necessary to conform the State regulations to federal rules that will apply in 2014. The current proposed regulation would amend subsection 27.80(c), establishing salmon fishing regulations for the month of April 2014, and add a new subsection

27.80(e), increasing the recreational salmon possession limit on land to two daily bag limits. In addition, recreational salmon fishing regulations for May 1 through the end of 2014 will be considered in a separate rulemaking action, tentatively scheduled for adoption in April 2014.

For public notice purposes to facilitate Commission discussion, the Department of Fish and Wildlife is proposing the following regulations to encompass the range of federal ocean salmon regulations that are expected to be in effect April 5 through April 30, 2014. This approach will allow the Commission to adopt State ocean salmon recreational fishing regulations to conform to those in effect in federal ocean waters.

- (1) North of Horse Mountain and in Humboldt Bay: The fishery shall remain closed in this area during April. The remainder of the 2014 season will be decided in April by the PFMC and Commission and the section will be amended pursuant to the regulatory process.
- (2) South of Horse Mountain: The season, if any, may open on a date within the range of April 5 through April 30, 2014. The proposed daily bag limit will be from zero to two fish, and the proposed minimum size will be from 20 to 26 inches total length. The exact opening dates, along with daily bag limit, minimum size, and days of the week open may be different for each subarea and will be determined by the Commission, considering federal regulations applicable to each subarea for April 2014.

In addition, the proposed regulation will provide an ocean salmon possession limit of up to two daily bag limits when on land. However, on a vessel in ocean waters, the boat limit for salmon shall be determined by the single daily bag limit and the number of anglers pursuant to subsection 27.60(c), Title 14, CCR. In the regulatory subsections for each subarea, reference to the general possession limit (Section 1.17) will be replaced with a reference to new subsection 27.80(e) which will specify the possession limit. The exact possession limits will be determined by the Commission, considering the federal regulations applicable to each subarea.

Other changes are proposed to clarify the existing regulations.

The benefits of the proposed regulations are concurrence with federal law, sustainable management of ocean salmon resources, and promotion of businesses that rely on recreational ocean salmon fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The legislature has delegated authority to the Commission to adopt sport fishing regulations in general (sections 200, 202 and 205, Fish and Game Code) and salmon sport fishing regulations specifically (Section 316.5, Fish and Game Code). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR) and with general sport fishing regulations in chapters 1 and 4 of subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of salmon in the ocean.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building, First Floor Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, February 5, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Justice Joseph Rattigan Building, 50 D Street, Room 410 A/B, Santa Rosa, California, on Wednesday, March 19, 2014, at 8:00 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office must be received before 5:00 p.m. on March 14, 2014. All comments must be received no later than March 19, 2014, at the hearing in Santa Rosa, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Dr. Craig Shuman, Regional Manager of the Marine Region, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Status quo fishing levels for April 2014 as compared the 2013 April ocean salmon sport fishing season are anticipated.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate that the proposed regulations will have any impact on the creation or elimination of jobs, the creation or elimination of businesses or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Salmon sport fishing contributes to increased mental health of its practitioners, provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of California's natural resources.

The Commission anticipates benefits to the State's environment in the sustainable management of salmon resources.

Additional benefits of the proposed regulations are concurrence with federal law, and promotion of businesses that rely on recreational ocean salmon fishing.

The Commission does not anticipate benefits to worker safety.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: January 7, 2014

Sonke Mastrup
Executive Director